



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
 1200 Sixth Avenue
 Seattle, WA 98101

September 30, 2003

Reply To
 Attn Of: ECL-115

Mr. Jim McKenna
 Port of Portland & Co-Chairman, Lower Willamette Group
 121 NW Everett
 Portland, Oregon 97209

Mr. Robert Wyatt
 Environmental Compliance Specialist
 Northwest Natural & Co-Chairman, Lower Willamette Group
 220 Northwest Second Avenue
 Portland, Oregon 97209



Re: Lower Willamette Group Letter Dated July 16, 2003;
 Administrative Order on Consent for the Portland Harbor Superfund Site Remedial
 Investigation and Feasibility Study; Reimbursement of EPA Response Costs

Dear Bob and Jim:

This letter responds to your July 16, 2003 letter that, in addition to forwarding payment of EPA's Bill No. 102603T050, contained a couple requests for information and posed four specific questions. EPA appreciates the Respondents' timely payment of our bill.

In your letter, you requested copies of all documentation supporting the bill, and indicated that you may seek adjustments after reviewing the information. EPA believes clarification of the AOC payment process is needed. As you know, Section XXII. of the AOC addresses reimbursement of EPA Response costs. Paragraph 1 of Section XXII., among other things, indicates that "EPA shall submit an accounting to Respondents on a periodic basis . . . [and a]ny necessary summaries, . . . or such other summary as certified by EPA, shall serve as the basis for payment demands." Paragraph 1 also provides that Respondents may review specifically enumerated cost documentation, e.g., EPA personnel time sheets, travel authorizations and vouchers; EPA contractor monthly invoices; and all applicable contract laboratory program (CLP) invoices. Paragraph 2 of Section XXII. provides that Respondents shall pay the oversight bill within 30 days of receipt of each accounting. Paragraph 5 provides that Respondents may dispute costs, but undisputed costs must be paid within the 30-day deadline for payment and disputed costs must be placed into an escrow account while the dispute is pending.

Under the terms of the AOC, within 30 days of receipt of EPA's bill and certified summary, Respondents must pay the entire bill, or raise a dispute by paying the undisputed

portion of the bill and placing disputed costs into an escrow account. If the Respondents wish to review the documentation before paying or deciding to dispute costs, they must request to review the documents within the 30-day payment schedule. If costs are not disputed within 30 days of our bill, or if costs are paid, Respondents waive their right to dispute the costs.

In response to your request for cost documentation, EPA has prepared the cost documentation for Bill No. 102603T050, and it is enclosed. However, the time for raising a dispute about the bill has passed.

You also requested in your letter that cost documentation be provided along with EPA's future oversight bills. As agreed in the AOC, EPA will make available for review the agreed upon documents if requested by the Respondents. However, as the AOC provides the certified summary will be the basis for payment demands. That means for future bills EPA will send a certified summary with our payment demand, and the Respondents may request to review the documentation upon receipt of our bill. If the documentation is not available for you to review within the 30-day payment deadline, Respondents can choose to pay the bill or dispute whatever amount is believed to not be payable under the terms of the AOC. Respondents must then place the disputed amount into an escrow account. EPA will make every effort to have the documentation available for review by Respondents as soon as possible after it is requested; however, the AOC does not provide that EPA will send documentation beyond the certified summary with the bill. EPA does not gather such documentation as part of its certification process, and doing so would delay sending an accounting and bill.

The following four paragraphs are the answers to the four questions posed to EPA in your July 16 letter:

1. Two account numbers were reflected in EPA's oversight bill, 103R and 108T, because Account 103R was established prior to the AOC and costs related to negotiating the AOC and RI/FS were billed to that account before the effective date of the AOC. Account 108T was established upon the effective date of the AOC to be the primary account to which costs associated with the AOC and RI/FS will be billed. However, AOC and RI/FS-related may also be billed to 103R after the AOC effective date.
2. EPA provides funding to NOAA through an Interagency Agreement for CERCLA-related activities. NOAA employees then document their time on a site specific basis and provide EPA with an invoice that we include in our billing packages for cost reimbursement. The enclosed documentation includes information about the NOAA IAG costs contained in Bill No. 102603T050.
3. Staff time related to public involvement costs were included in Bill No. 102603T050; however, TAG grant costs were not included and will be included in the next invoice.
4. Reimbursed costs placed into a site-specific special account can be used to for any CERCLA response action at the site. Special account funds may be used for both

intramural (e.g., salaries and benefits) and extramural (e.g., contract) expenses at a site. At this stage in the Portland Harbor Superfund Site RI/FS, EPA likely may use the special account funds to pay the agencies' costs for RI/FS oversight, site-related response actions, enforcement, or any other work related to Portland Harbor where our annual appropriated budget may not fully fund such activities.

If you have any questions, please call Chip Humphrey at (503) 326-2678 or Tara Martich at (206) 553-0039. All legal inquiries should be directed to Lori Houck Cora at (206) 553-1115.

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Martich". The signature is fluid and cursive, with the first name "Tara" and last name "Martich" clearly distinguishable.

Chip Humphrey
Tara Martich
Remedial Project Managers